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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,017	12/08/2005	Karl Pfahler	095309.56028US	9291
23911 7590 01/08/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
IDELL, JOSEPH T				
ART UNIT		PAPER NUMBER		
3636				
MAIL DATE		DELIVERY MODE		
01/08/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,017

Applicant(s)

PFAHLER ET AL.

Examiner

JOSEPH F. EDELL

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE-US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 4, 5, 8, and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by PCT Publication No. WO 03/051666 A1 to Huo et al.

Huo et al. discloses a cushion that includes all the limitations recited in claims 4, 5, 8, and 9. Huo et al. show a cushion having a cushion core 4 (see Fig. 1) made of a foam material, an air-permeable and moisture-permeable covering layer 7,32,33,34 by which the cushion core is lined and including a support 33,34 made of foam and an air-permeable lining 7 stretching across the support, a set of longitudinally extending grooves (along longitudinal portions of ducts 18,19) extending between the cushion core and the covering layer, a set of transversely extending grooves (along transverse portions of ducts 18,19) defined between the cushion core and the covering layer to form groove intersection points together with the set of longitudinally extending grooves, channels 9,22 passing through an entire core thickness of the cushion core, a first end of each channel opening into the longitudinally and transversely extending grooves at the groove intersection points, a second end of each channel opening out freely on an outer face of the cushion core directed away from the grooves, a miniature fan 12,17

that sucks air in from an area surrounding the cushion to provide air flow out through the second ends of at least some of the channels, a mouth positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, and at least one shaft 9 in the cushion core opening out into the network of grooves and open on an outer face of the cushion core directed away from the network of grooves wherein the fan is disposed in the shaft extending through the cushion core, the network of grooves are spaced apart from one another and define rows and columns of groove intersection points that are open toward the covering layers and through which air is forced, and the fan is arranged in the shaft.

Please note that Examiner reasonably interprets "rubberized hair" as being foam.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huo et al. in view of U.S. Patent No. 5,597,200 to Gregory et al.

Huo et al. disclose a cushion that is basically the same as that recited in claims 6 and 7 except that the foam is not specified as reticulated foam, as recited in the claims. Gregory et al. show a cushion similar to that of Huo et al. wherein the cushion has a layer of reticulated foam 40 (see Fig. 1). Therefore, it would have been obvious to one

having ordinary skill in the art at the time the invention was made to modify the cushion of Huo et al. such that the foam is reticulated foam, such as the cushion disclosed by Gregory et al. One would have been motivated to make such a modification in view of the suggestion in Gregory et al. that the reticulated foam allows for free movement of conditioned air.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,866,800 to Bedford in view of U.S. Patent No. 6,179,706 B1 to Yoshinori et al.

Bedford discloses a cushion that is basically the same as that recited in claims 4-9 except that the cushion lacks sets of grooves and a covering layer, as recited in the claims. See Figures 1-3 of Bedford for the teaching that the cushion has a cushion core 11,13 made of a foam material, grooves formed by valley 19 defined between the cushion and the covering layer, channels 23 passing through an entire core thickness of the cushion core, a first end of each channel opening into the grooves, a second end of each channel opening out freely on an outer face of the cushion core directed away from the grooves, a miniature fan 27 that sucks air in from an area surrounding the cushion to provide air flow out through the second ends of at least some of the channels, and at least one shaft (near cutout 25) in the cushion core opening out into the grooves and open on an outer face of the cushion core directed away from the grooves wherein the fan is disposed in a shaft extending through the cushion core.

Yoshinori et al. show a cushion similar to that of Bedford wherein the cushion has a cushion core 8 (see Fig. 1), an air-permeable and moisture-permeable covering layer

9,10 which the cushion core is lined, a set of longitudinally extending grooves (along transverse portions of passages 13), a set of transversely extending grooves (along transverse portions of passages 13) defined between the cushion core and the covering layer to form a network of grooves together with the set of transversely extending grooves, a mouth positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, a support 9 of the covering layer made of foam, and an air-permeable lining stretching across the support 10. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion of Bedford to include an air-permeable and moisture-permeable covering layer which the cushion core is lined and having a support made of reticulated foam and an air-permeable lining stretching across the support, and the grooves are replaced with a set of longitudinally extending grooves and a set of transversely extending grooves defined between the cushion core and the covering layer to form a network of grooves together with the set of transversely extending grooves wherein a mouth is positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, such as the cushion disclosed by Yoshinori et al. One would have been motivated to make such a modification in view of the suggestion in Yoshinori et al. that the network of grooves immediately provides cooling comfort with less air loss via interconnected passages, and in view of the knowledge generally available to one skilled in the art that a covering layer provides an aesthetically pleasing and comfortable seating arrangement.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,196,627 B1 to Faust et al. in view of Yoshinori et al.

Faust et al. disclose a cushion that is basically the same as that recited in claims 4-9 except that the cushion lacks sets of grooves, as recited in the claims. See Figures 1 and 1A of Faust et al. for the teaching that the cushion has a cushion core 22 made of a foam material, an air-permeable and moisture-permeable covering layer lining the cushion core and including a support 23,24,26 made of reticulated foam and an air-permeable lining 25 stretching across the support, passages in layer 23 defined between the cushion and the covering layer, channels 30 passing through an entire core thickness of the cushion core, a first end of each channel opening into the passages, a second end of each channel opening out freely on an outer face of the cushion core directed away from the channels, a miniature fan 29 that sucks air in from an area surrounding the cushion to provide air flow out through the second ends of at least some of the channels, at least one shaft 32 in the cushion core opening out into the grooves and open on an outer face of the cushion core directed away from the grooves, and the fan is disposed in the shaft extending through the cushion core.

Yoshinori et al. show a cushion similar to that of Faust et al. wherein the cushion has a cushion core 8 (see Fig. 1), a set of longitudinally extending grooves (along transverse portions of passages 13), a set of transversely extending grooves (along transverse portions of passages 13) defined between the cushion core and the covering layer to form a network of grooves together with the set of transversely extending grooves, and a mouth positioned in an intersection area of one of the longitudinal

grooves and one of the transverse grooves. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion of Faust et al. to include a set of longitudinally extending grooves and a set of transversely extending grooves defined between the cushion core and the covering layer to form a network of grooves together with the set of transversely extending grooves wherein a mouth is positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, such as the cushion disclosed by Yoshinori et al. One would have been motivated to make such a modification in view of the suggestion in Yoshinori et al. that the network of grooves immediately provides cooling comfort with less air loss via interconnected passages.

Response to Arguments

Applicant's arguments filed 30 September 2008 have been fully considered but they are not persuasive. Applicant's arguments with respect to the teachings of Huo et al. have been considered but are moot in view of the new ground(s) of rejection. With respect to the combination of Bedford and Yoshinori et al., Applicant argues that the combination is inappropriate because there is no evidence that Bedford provides inadequate cooling comfort with minimal air loss that would be improved with the modification in view of the teachings in Yoshinori et al. However, Applicant's argument is unpersuasive. In contrast to Applicant's reasoning, there is no requirement to establish the inadequacies of Bedford. The issue is whether one of ordinary skill, in view of the teachings of Yoshinori et al., would have been motivated to modify the

cushion of Bedford. Yoshinori et al. teach the benefits of having set of intersecting grooves to provide superior cooling to a ventilating seating system. Bedford's teaching provides the requisite motivation to modify the cushion of Bedford.

With respect to the combination of Bedford and Yoshinori et al., Applicant argues that the combination is inappropriate because there is no evidence that the pad of Bedford is aesthetically displeasing. However, Applicant's argument is unpersuasive. Bedford's disclosure focuses on the interior components of the ventilated seat without providing disclosure toward the inherently requisite support framing and seat covering. One of ordinary skill would have looked to modify the seat disclosed by Bedford, in view of Yoshinori et al., such that the seat has an aesthetically please covering layer that is often used in luxury automobiles.

With respect to the combination of Faust et al. and Yoshinori et al., Applicant argues that the combination is inappropriate because there is no evidence that Faust et al. provide inadequate cooling comfort with minimal air loss that would be improved with the modification in view of the teachings in Yoshinori et al. However, Applicant's argument is unpersuasive. In contrast to Applicant's reasoning, there is no requirement to establish the inadequacies of Faust et al. The issue is whether one of ordinary skill, in view of the teachings of Yoshinori et al., would have been motivated to modify the cushion of Faust et al. Yoshinori et al. teach the benefits of having set of intersecting grooves to provide superior cooling to a ventilating seating system. Yoshinori et al.'s teaching provides the requisite motivation to modify the cushion of Faust et al.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/

Primary Examiner, Art Unit 3636

January 8, 2009